

SKAMANIA COUNTY
COUNTY COMMISSIONER PAUL PEARCE
PREFILED RUBUTTAL TESTIMONY
EXHIBIT NO. __00R

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of Application No. 2009-01:
WHISTLING RIDGE ENERGY LLC;
WHISTLING RIDGE ENERGY PROJECT

EXHIBIT NO. __.00R

SKAMANIA COUNTY'S PREFILED REBUTTAL TESTIMONY

WITNESS #1: COMMISSIONER PAUL PEARCE

Q Please state your name and business address.

A My name is Paul Pearce. My business address is 240 Vancouver Avenue, Stevenson, Washington, 98648.

Q What is your present occupation and profession, and what are your duties and responsibilities?

A I have served as Skamania County Commissioner since 2004. As Commissioner, I have worked on rural economic and community development issues. Since 2005, I have served as a Board Member (and have twice Chaired) the Mid Columbia Economic Development District (MCEDD), which represents three Oregon counties, and two Washington Counties (Klickitat and Skamania). In this capacity, I have chaired the MCEDD Loan Committee, hosted the MCEDD Regional Workforce Housing Summit, and hosted the MCEDD Regional Transportation Summit. I have also served as Second

COMMISSIONER PEARCE
PREFILED REBUTTAL TESTIMONY - 1

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1 Vice President on the National Forest Counties and Schools Coalition; served on the
2 Partnership for Rural America Campaign Committee Executive Board/Steering
3 Committee; worked for the National Association of Counties (Chaired the Federal
4 Payments Subcommittee of the Public Lands Steering Committee); and served as
5 Washington Association of Counties Vice President.

6 Q The County has not previously moved to intervene in this proceeding, is that correct?

7 A That is correct. We are a party of right. EFSEC explained this at the first pre-hearing
8 conference on the Project. Consequently, we have always understood the County to be a
9 party.

10 Q The County has participated throughout the proceeding, is that correct?

11 A Yes. We have testified at hearings, submitted comment, and monitored EFSEC review.
12 We became alarmed when we saw testimony and exhibits submitted by opponents,
13 particularly Park Service comments and argument on Scenic Area setbacks, and argument
14 reflecting a misunderstanding of County economic and planning background, so retained
15 legal counsel to ensure our position was heard.
16

17 Q So, your testimony relates to these concerns, then?

18 A Yes. I am providing this testimony to respond to the following exhibits filed by
19 Intervenors' Friends of the Columbia Gorge, Inc. and Save Our Scenic Area:

- 20 • Exhibit No. 21.02: US Forest Service Letter, May 6, 2009
- 21 • Exhibit No. 21.03: US Forest Service Letter, August 23, 2010
- 22 • Exhibit No. 21.04: National Park Service Letter, May 18, 2009
- 23 • Exhibit No. 21.05: Secretary of Dept. of Interior Letter, July 19, 2010
- 24 • Exhibit No. 23.02: Skamania County Ord. 2010-06
- Exhibit No. 29.02: Skamania County SEPA 08-35.
- Exhibit No. 29.03-01: Skamania County Comprehensive Plan
- Exhibit No. 29.03-02: Skamania County Comprehensive Plan, pt. 2.

25 Q Are you able to answer questions under cross examination regarding your testimony?

26 A Yes.

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2 Q Does Skamania County condition development located outside the Scenic Area, based on
3 the project's proximity to the Scenic Area?

4 A No.

5 Q Could you explain why not?

6 A When Congress first proposed the Columbia River Gorge National Scenic Area Act, the
7 County foresaw that the Act would have a major impact on our citizens. We initially
8 opposed enactment. But, Congress responded to our concerns in three key ways. First,
9 the Act established urban-exempt areas, to which the Act does not apply. Second, and
10 most importantly for this Project, the Act includes a "savings clause," which created a
11 hard boundary line.
12

13 **Nothing in this Act shall ... establish protective perimeters or buffer zones**
14 **around the scenic area or each special management area.** The fact that
15 activities or uses inconsistent with the management directives for the scenic area
16 or special management areas can be seen or heard from these areas shall not, of
itself, preclude such activities or uses up to the boundaries of the scenic area or
special management areas.¹

17 Third, Congress "federalized" significant land areas within the County. Since 1986, the
18 federal government has purchased more than 20,000 acres of private land.
19 (Unfortunately, this has also removed them from the private tax rolls. As noted in Mr.
20 Hovee's testimony, this places increasing burden on the local tax base.) Except with
21 respect to the latter action's impact on public services, these measures softened the Act's
22 blow. With the urban exemptions and Savings Clause, the Act struck a balance, allowing
23 the County to survive economically, and to sustain public services for our citizens.
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¹ 16 USC §544o(a)(10), emphasis added.

1 Q So presumably, given this background, the County does not use the Act, combined with
2 SEPA, to condition development outside Scenic Area boundaries?

3 A No. We have not imposed mitigation within either the urban exempt areas or outside the
4 Scenic Area boundary based on the Act. The Act is comprehensive and complete as a
5 regulatory tool within the area it regulates. And, with only 7% of the land base left in this
6 county in private ownership; which includes 4% in private working forest holdings, such
7 an approach could have particularly harsh economic development implications.
8

9 Q So, the County disagrees with the Project opponents' position that the Act should be used
10 to condition development outside the Scenic Area?

11 A The opponents believe the Act's aesthetic protocols, guidelines and regulatory
12 requirements should apply to the Project, even though it is outside the Scenic Area. The
13 opponents insist that whenever something can be seen from within the Scenic Area, it
14 must be regulated as if it were within it. Such an argument is not consistent with the
15 Skamania County Code. The Scenic Act's aesthetic protocols, guidelines and regulatory
16 requirements are incorporated into SCC Title 22, which applies to the Scenic Area and
17 "to no other lands within the county...."² Because the Gorge Commission has found
18 SCC Title 22 consistent with its Management Plan, the Management Plan no longer
19 applies.³
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22 Q Isn't the opponents' position also inconsistent with the Scenic Area Act itself?
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25 ² SCC 22.02.050.

26 ³ See 16 USC 544e(c)(2) ("Upon approval of a land use ordinance by the Commission it shall supersede any regulations for the county developed by the Commission, subject to valid existing rights.").

1
2 A Yes. The opponents' position eliminates the bargain we struck in 1986, to balance
3 environmental and economic interests. Gone are the statutorily exempt urban areas.
4 Gone are the distinct Scenic Area boundaries. Instead, the Act would reach outside its
5 jurisdictional boundaries; potentially into all of Skamania County. This would impair our
6 County's economic future, with potential ramifications for major urban and urbanizing
7 areas of Clark County and Multnomah County (e.g., Washougal, Camas and areas in
8 southeast Vancouver, as well as Gresham and Troutdale). This is exactly the outcome the
9 County opposed in 1986, and it is why Congress addressed this concern.
10

11 Q So, just to back up a bit. Other development outside the Scenic Area is visible from
12 within the Scenic Area?
13

14 A Yes. You know, most people talk about the views in the Gorge as either north or south,
15 but there is not as much discussion of development to the east or west. Yet, at the west
16 end, in full view of any number of key viewing areas sits the entire town of Washougal
17 and the stacks of the Camas Paper mill. On the east end, right on the Scenic Area
18 boundary, is the Maryhill Winery & Amphitheatre, and in the distance, wind turbines.
19

20 Q Do you find this inconsistent – restricting development within the Scenic Area, but not
21 without?
22

23 A Not at all. As I've explained, the Act has dual purposes: it was designed to protect the
24 Columbia River Gorge from an environmental standpoint, but also to promote economic
25 development.⁴ That was the 1986 compromise.
26

⁴ 16 USC §544a(1) and (2).

1 Q One other question on impacts. This would be the first and only wind project in
2 Skamania County, is that correct?

3 A That is correct. The County has no other wind projects, and there are no other projects in
4 the area. Whistling Ridge is 35.5 miles to the west of any other project.

5 Q You mention economic development. Is this an issue that matters to Skamania County?

6 A That is an understatement. That is why I ran for office over six years ago. That is why I
7 work with three Oregon and two Washington counties to support rural counties. Let me
8 explain. Skamania County is about a million acres, 85% of which is National Forest.
9 No other county in the State of Washington is 85% National Forest. Coupled with that,
10 are 80,000 acres in the Scenic Area, plus 60,000 acres of State Forest Trust land. And
11 finally, 40,000 acres of private commercial forest land.
12

13 Q How much is left for development within the County?

14 A 30,000 acres, or three percent.

15 Q Three percent, for residential, industrial, and commercial uses?

16 A Correct.

17 Q So, what does this mean for the economic situation in Skamania County?

18 A Well, twenty years ago, things were very different for the County. From 1970 through
19 1991, the National Forest produced 350 million board feet per year, on average. This
20 resulted in about 10 million dollars in revenue to the County and schools in today's
21 dollars. The State Forest Trust land produced an average of two million dollars for the
22 county throughout the 80's and early 90's. Then the Spotted Owl was listed as an
23 endangered species, and production shut down.
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1 Q Shut down?

2 A Yes. We went from four full time mills running multiple shifts to one. We went from
3 800 full time family wage jobs in the forest to less than two dozen. This devastated the
4 local economy.

5 Q Did the County receive any federal aid?

6 A Yes. During the 1990's the Federal Government provided "Owl Guarantee" funds, on
7 the basis that once the species recovered, the logging would continue. This did not occur,
8 so Congress passed the Secure Rural Schools and Forest Counties Act which paid the
9 County an amount equal to average logging receipts through 2006. Again, there was an
10 assumption that logging receipts would increase. This did not occur. Congress
11 reauthorized the statute, with a yearly declining payment until 2011. Without this money,
12 the County would have laid off half of our workforce and the schools would have lost
13 40% of their funding. Three of our four school districts would have closed. On the state
14 front our first quarter payment for State Timber Trust receipts for 2009 was only one
15 hundred thousand dollars. We spent a great deal of time working on the reauthorization
16 effort of Secure Rural Schools legislation. I mention that because at the moment it is the
17 County's life blood. (Less than 17% of our total budget comes from property tax; most
18 counties receive about 45%). During the reauthorization fight we were told repeatedly by
19 Senators, Congressman and the Administration that as former, rural, timber-dependent
20 counties we must transition our economies. This Board of County Commissioners heard
21 that loud and clear and is working hard to make the transition happen. Renewable energy
22 is a key part of that effort.
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1 Q How is the County's employment situation?

2 A Not good. 12.9% unemployment for the first three quarters of 2010.

3 Q Would the Project help alleviate that?

4 A Yes. The Project would contribute significantly in temporary construction phase jobs and
5 indirect spending that goes with those jobs (e.g., restaurants, supplies, lodging), and
6 guarantee a fixed number of permanent well-paying jobs. Plus, the Project would
7 contribute heavily to the County's assessed value, funds local schools, and bring in sales
8 tax revenues, while having public service demands which can be readily met with
9 appropriate mitigation.
10

11 Q Given that the Project is so compatible with County objectives, why is there no zoning on
12 most of the site providing for it?

13 A Let me provide some background. When I came into office, minimal land within the
14 County located outside the Scenic Area was zoned, and our comprehensive plan had not
15 been revised for almost three decades - since 1977. We embarked on a long-range
16 planning process three years ago, to finish work on the zoning code and to update the
17 plan. The process began with a series of all-day Commissioner workshops early in 2008,
18 followed by Planning Commission hearings in the fall. During this process, because the
19 County strongly supports renewable energy (consistent with state law)⁵ zoning
20 specifically addressing both small-scale and commercial-scale wind development was
21 proposed. However, the environmental review for the wind development provisions was
22 appealed, and the County Hearing Examiner remanded for further analysis. At that point,
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26 ⁵ RCW 19.285.020 (provision from Energy Independent Act supporting renewable energy development); RCW 70.235.020 (state requirements for reducing greenhouse gas emissions).

1 the County had three choices: appeal; prepare additional environmental review (e.g.,
2 likely an Environmental Impact Statement); or defer to the EFSEC process. Because the
3 County felt confident EFSEC would complete a thorough, yet fair review, we took the
4 latter approach. With this Project being reviewed through EFSEC, this allows the County
5 to focus its limited resources on completing the extensive work required to update its
6 zoning code to cover the entire County, and ensure the 15,000 acres are properly zoned.
7

8 Q Let's move to a different topic. Tell me about the Lewis & Clark National Historical trail
9 and the Oregon National Historic Trail.

10 A Well, the Congressionally-established route of both of these trails is on the Columbia
11 River as it passes through Skamania County. However, federal law provides that only
12 those parts of the routes that are on federally-owned land are "protected;" non-federally
13 owned parts of the route can be "certified" for protection upon application by the
14 property owner. The National Park Service is supposed to identify "high-potential route
15 segments" and "high-potential historic sites" along the trail routes in its comprehensive
16 management plans for the trails. A so-called "auto-tour" route for each trail can be
17 marked to facilitate retracement of the historic route or to commemorate it. The State of
18 Washington-designated auto-tour route for the Lewis and Clark National Historic Trail is
19 SR 14, and the State of Oregon's is I-84. I-84 is also the auto-tour route for the Oregon
20 National Historic Trail. I-84 runs along a landscape that includes urban areas, major
21 hydroelectric facilities, transmission lines, cross-Cascade railroad, and numerous other
22 facilities. Before entering the Scenic Area, the auto routes run through eastern
23 Washington and Oregon, including through areas with wind development, which the Park
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1 Service has not commented on. Also, bear in mind, these auto-tour routes are not part of
2 the trails' route. Federal law provides that they simply facilitate retracement of the route
3 or commemorate it.

4 Q Does Skamania County typically condition non-Scenic Area development based on
5 visibility from these trails and their auto-tour routes?
6

7 A No. Skamania County does not condition development outside the Scenic Area due to its
8 visibility from the Columbia River, I-84, or SR 14.

9 Q Yet, comment letters submitted by the National Park Service emphasize visual impact
10 issues, and suggest mitigation.

11 A Yes. I have reviewed the correspondence addressing visual effects on state-designated
12 auto tour routes, and vaguely based on the location of the Lewis & Clark Trail. And, the
13 County is aware that Lee Kreutzer, Cultural Resources Specialist for the Oregon National
14 Historic Trail, stated that Whistling Ridge would have no significant adverse impacts to
15 either the historical route or the auto-tour route of that trail. Her comments were deleted
16 from, and not included in the letter sent to the Department of the Interior. (See Exhibits
17 __.01R; 21.05). In contrast, Mr. Wiley, who apparently has a role in administering the
18 Lewis & Clark Trail (from Omaha, Nebraska), opined that seven of the turbines would
19 have a "high" impact on the Trail. This deletion of Ms. Kreutzer's "no impact"
20 comment, in favor of Mr. Wiley's "high impact" comment, for two trails that follow the
21 same route, reflects a division of agency opinion, as well as subjective bias.
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23

24 Q Could you outline the key points for considering issues related to the Lewis & Clark
25 National Historic Trail?
26

1 A Yes. There are basically five points to bear in mind:

2 First, the Congressional creation of the Lewis and Clark National Historic Trail
3 protects the trail on federal property; not on private land. The Project is on private land
4 and the trail does not even cross this private land.

5 Second, I am not aware of (and the letters from the National Park Service do not
6 indicate) that there are any non-federally owned sites in Skamania County that have been
7 certified for protection.

8 Third, the current comprehensive management plan does not identify "high-
9 potential route segments" or "high-potential historic sites" for the Lewis & Clark
10 National Historic Trail. Instead, it simply identifies sites with "potential for inclusion in
11 the Lewis and Clark National Historic Trail," including the Bingen Boat Basin, Viento
12 State Park, Starvation Creek State Park, and Lyndsey State Park. It states that an
13 "appropriate interpretive sign should be developed" at Viento State Park and a "general
14 interpretive sign should be developed" at Lyndsey State Park. There is nothing about
15 protecting the viewsheds from these parks.

16 Fourth, the current comprehensive management plan states that I-84 is "not
17 proposed for development as the route of the National Historic Trail" and it identifies I-
18 84 and Highway 14 on a map as "State Designated Lewis and Clark Highways." There is
19 nothing about protecting the viewsheds from these state-designated auto-tour routes.
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1 Fifth, the Park Service confuses the Lewis & Clark National Historic Trail with
2 the Scenic Area. These issues are not related. The Trail Act in no way ties them
3 together. Stating that a project negatively impacts a national trail because the project can
4 be seen from the Scenic Area has no grounding in federal law. Moreover, based on the
5 Park Service's internal review, the official responsible for the Oregon Trail had no such
6 concerns.
7

8 Q Thank you. Is there anything you wish to add to your testimony?

9 A Just one final point. The Scenic Area Act promoted both environmental and economic
10 development objectives. It accomplished this through the historic 1986 compromise,
11 which designated urban-exempt areas and established the Scenic Area's distinct outer
12 boundaries, beyond which the federal legislation does not reach. Consistent with the Act,
13 this Project accomplishes both objectives. It protects the Scenic Area: it has been pulled
14 entirely from it. That's 85% of the County wind development does not touch.
15
16 That is enough mitigation. You know, whether it is the Canadian tar sands fueling our
17 cars, or Wyoming and Montana coal beds heating our homes, we are going to get our
18 energy from somewhere. The Project would produce clean, home-grown energy,
19 honoring the deal struck in 1986.
20

21
22 Respectfully Submitted,

23 *Paul Pearce*
24 _____
25 Commissioner Paul Pearce
26 Skamania County

1 I hereby certify that I have this day served the foregoing document upon all parties of
2 record in this proceeding, by authorized method of service pursuant to WAC 463-30-120(3).
3

4 Dated at Seattle, Washington, this 16th day of December, 2010.

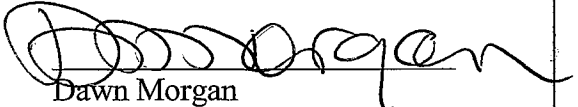
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6 Dawn Morgan
7 Asst. to Susan Drummond
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EXHIBIT 50.01R

**U.S. Department of Interior, Nat'l Park Service
Redlined Memo (July 1, 2010)**



National Park Service
U.S. Department of the Interior

Pacific West
Regional Office
Seattle

909 First Ave
Fifth Floor
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PACIFIC WEST REGIONAL OFFICE Memorandum

ER 10/492

July 1, 2010

To: Regional Environmental Officer, Office of Environmental Policy and Compliance,
Portland, Oregon

From: Deputy Regional Director, National Park Service, Pacific West Region

Subject: Response to Draft Environmental Impact Statement for Bonneville Power
Administration's Whistling Ridge Energy Project (ER 10/492)

The National Park Service offers the following comments in response to the above project:

The National Park Service (NPS) has reviewed the Draft Environmental Impact Statement (DEIS) for the proposed Whistling Ridge Energy project in Skamania County, Washington. The NPS offers the following comments for consideration.

Lewis and Clark National Historic Trail

The proposed Whistling Ridge Energy project is located within ~~five~~ ⁵ miles of ~~two~~ ^{one} congressionally designated national historic trails that are administered by the NPS. Both the Lewis and Clark National Historic Trail (NHT), a congressionally-designated NHT, which and the Oregon NHT follows the Columbia River and, which is within the area analyzed in the DEIS for potential visual impacts. In addition to these historic trail designations, US Interstate 84 and Washington Route 14 are the state-designated Lewis and Clark auto tour routes in the project area. Many visitors experience these Lewis and Clark NHT historic trails by traveling the auto tour routes and stopping at interpretive and recreational sites along the way. The NPS considers the viewshed on and along the river and auto tour routes to be a critical part of the trail visitor experience.

The Lewis and Clark and Oregon NHTs were established by Congress in an amendment to the National Trails System Act in 1978, [16 U.S.C. § 1244(a)]. As administrator of these trails, the NPS is charged under this Act with the identification and protection of the historic route, remnants, and artifacts of both the trails for public use and enjoyment.

Based on the analysis of visual impacts in the DEIS, it appears that a varying number of turbines will be visible from the trail's historic river and auto tour routes from near Koberg Beach State Park to Lindsey Creek State Park. This approximately 15-mile stretch of the Columbia River Gorge has numerous recreational opportunities and scenic

Comment [Dln1]: Are these the Oregon auto tour route also? NPS Oregon Trail website shows Interstate 84.

Comment [kp2]: Hi, Denise: Responding to your comment above, yes, I-84 is the Oregon NHT auto tour route. However, Lee Kreutzer from National Trails did not feel there would be significant impacts to either the historical route, which is the river at this location, or the auto tour route/I-84.

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The National Park Service cares for special places saved by the American people so that all may experience our heritage.

views that add significantly to enjoyment of the historic trails. Of the five viewpoints along US Interstate 84 analyzed in the DEIS, ~~one~~ Viewpoint # 14 at Viento State Park, is rated in Table 3.9-2 as having an anticipated moderate to high level of visual impact. However, on page 3-193 of the DEIS, the potential visual impact for this viewpoint is stated as only moderate. Furthermore, it appears that the turbines were inadvertently omitted in the photomontage in Figure 3.9-11. While difficult to discern the impact at this location without clarification on the accuracy of the visual simulation, ~~it is our expectation we believe~~ that the impact should be rated as high given the placement of turbines on the skyline within four miles of a park located along the auto tour route.

Turbine string A1-A7 would be highly visible from numerous locations along the trails due to its placement on a ridgeline close to the Columbia River Gorge. The NPS recommends removing or relocating these seven turbines, if feasible. This would significantly reduce the impact to visual resources along the historic trails. ~~The value of the visual resources in this region—that includes the Columbia River Gorge National Scenic Area and two Lewis and Clark NHT national historic trails—should not be underestimated~~ are important resources that should be protected.

Oregon National Historic Trail

The Oregon NHT is also located in the vicinity of the project. However, the corridor of the trail in this area is not "Class 1" trail, and should not be adversely impacted by the proposed project.

The NPS appreciates the opportunity to comment on the DEIS and requests to be added to the federal agency distribution list for this project. If you have questions regarding our comments please contact:-

Dan Wiley
-Chief of Resources Stewardship
-Lewis and Clark National Historic Trail
601 Riverfront Drive
Omaha, NE 68102
(-at 402)-661-1830
~~-or at~~ Dan_Wiley@nps.gov

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